IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

OP.No. 5651 of 1996(W)

PETITIONER:
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1. P. PAPPACHAN, MANAGING PARTNER,
   PAPPACHAN AND COMPANY, PANAVALLY P.O.,
   CHERTHALA.

2. KUNJARATH BROTHERS, PARTNERSHIP FIRM
   REPRESENTED BY ITS MANGING PARTNER K.T.JOSE,
   POST PANAVALLY, CHERTHALA.

BY ADV. SRI.K.ANAND

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY
   TO GOVERNMENT, THIRUVANANTHAPURAM.

2. THE COIR WORKERS WELFARE FUND BOARD,
   REPRESENTED BY ITS CHIEF EXECUTIVE, ALAPPUZHA.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.S.P.ARAVINDAKSHAN PILLAY
R1 BY SENIOR GOVERNMENT PLEADER SMT. MEERA
R2 BY SRI.DENIZEN KOMATH, SC, CWWFB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS -

P1 - COPY OF DEMAND NOTICE DT. 2.3.1996 ISSUED TO THE PETITIONER.

P2 - COPY OF OBJECTION DT. 19.6.1995 FILED BY THE PETITIONER.

P3 - COPY OF DEMAND NOTICE DT. 2.3.1996 ISSUED TO THE 2ND PETITIONER.

P4 - COPY OF KERALA COIR WORKERS' WELFARE FUND ACT 1987 AS APPEARED IN THE KERALA GAZETTE.

P5 - COPY OF KERALA COIR WORKERS' WELFARE FUND RULES 1989 AS APPEARED IN THE KERALA GAZETTE DT. 18.1.1989.

P6 - COPY OF COIR WORKERS' WELFARE FUND SCHEME 1989 AS APPEARED IN THE KERALA GAZETTE DT. 18.1.1989.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

O.P.No.5651 of 1996

Dated, this the 24th day of July, 2007

JUDGMENT

H.L. DATTU, CJ.

In this original petition, the petitioner seeks for the following reliefs. They are as under:

> "a) to issue a writ of certiorari or any other appropriate writ, order or direction calling for the records relating to Exts.P1 and P3 and quash the same.
>
> b) to declare that Sec.2(d), 2(h), 2(p), 2(g) and sec.4(2), 4(5) and sec.27 of the Kerala Coir Workers Welfare Fund Act, 1987 and Rules 4(3) and 4(6) of the Kerala Coir Workers Welfare Fund Rules 1989 and the scheme thereunder (Ext.P3) are ultravires the provisions of the Constitution of India and hence bad in law.
>
> c) to declare that the petitioners are not liable to pay any contribution under the provisions of the Kerala Coir Workers Welfare Fund Act, Rules and Scheme framed thereunder as assessed and demanded as per Exts.P1 and P3.
>
> d) to restrain the respondents 1 and 2 from taking any action against the petitioners pursuant to Exts.P1 and P3.
>
> e) to stay all further proceedings by the respondents pursuant to Exts.P1 and P3 including implementation of the provisions of the Act, rules and schemes in so far as the petitioners are concerned pending disposal of the above O.P.

f) to grant such other approximate reliefs to the petitioners as this Hon'ble Court deems fit and proper in the interest of justice and circumstances of the case and to allow this original petition with costs."

2. The issues raised in this writ petition are identical with the issues raised and considered by this Court in the case of *Ramachandran and others v. State of Kerala and others* in O.P.No.96 of 1991 and connected cases disposed of on 3rd July, 2003, Following the observations made in the aforesaid decision, this original petition is also disposed of in the same terms, observations, conditions and directions.

3. In view of the order passed in the writ petition, the reliefs sought for in C.M.P. Nos.9751 of 1996 and 5779 of 1998 need not be considered by this court. Accordingly, the said C.M.Ps. are rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/

H.L. DATTU, C.J. &
K.T. SANKARAN, J.

O.P.No.5651 of 1996

JUDGMENT

24.7.2007